



January 11, 2001

Ms. Julie Joe
Assistant Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2001-0124

Dear Ms. Joe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 143116.

The Office of the Attorney General (the "OAG") received a written request for the following information:

- 1) A copy of a letter the Texas Lottery Commission has asked the Attorney General to review. The letter, which would have been given to the Office of the Attorney General in the last three months, made allegations about the commission's director, Linda Cloud.
- 2) Any correspondence between the commission and the Office of the Attorney General regarding that letter.

You state that the OAG has released some responsive information to the requestor. You contend, however, that other information is excepted from required public disclosure pursuant to section 552.108 of the Government Code.

In this instance, we believe that you have made a demonstration that the information at issue must be withheld from the public pursuant to the "law-enforcement exception," section 552.108 of the Government Code. Specifically, you have represented to this office that the Travis County District Attorney's office has requested the OAG not to release the

information at issue because that information directly pertains to a pending criminal investigation. This office has previously held that the need of another governmental body to withhold requested information may provide a compelling reason for nondisclosure under section 552.108. See Open Records Decision Nos. 474 (1987), 372 (1983) ("law-enforcement exception" may be invoked by any proper custodian of information that relates to criminal incident). Based on your representation that the district attorney has requested that the information at issue not be released "because the premature release of those documents would interfere with that office's ability to detect, investigate, or prosecute crime," we conclude that the OAG must withhold the information at issue in its entirety pursuant to section 552.108 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

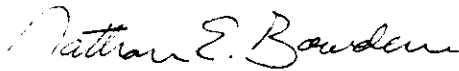
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/RWP/seg

Ref: ID# 143116

Encl. Submitted documents

cc: Ms. Michele Kurtz
Austin American-Statesman
P.O. Box 670
Austin, Texas 78767
(w/o enclosures)